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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fifteenth periodic reports of States parties due in 2001

Addendum

SENEGAL*

[21 May 2001]

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* This report contains in a single document the eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports of the Republic of Senegal due on 19 May 1993, 1995, 1997, 1999 and 2001 respectively. For the ninth and tenth periodic reports of Senegal, contained in a single document, and the summary records of the Committee's meetings at which the reports were considered, see: CERD/C/209/Add.7 and CERD/C/SR.1046 and 1047.

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Introduction

1. This report, which has been prepared in conformity with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, contains the eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports of Senegal. In the report, Senegal describes the national measures taken to implement the Convention and replies to the concerns and recommendations expressed by the Committee on the Elimination of Racial Discrimination following the submission of Senegal's previous report.

2. Like all States parties to the Convention, Senegal has undertaken to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.

3. However, long before its accession, in the early years of independence, Senegal put in place ample legislation to combat racial, ethnic and regional prejudices.

4. According to the Constitution of 7 March 1963, for example, "The people of Senegal declare their commitment to the fundamental rights defined in the 1789 Declaration of the Rights of Man and of Citizens and in the Universal Declaration of Human Rights of 10 December 1948".

5. This commitment is embodied in article 1 of the Constitution, which establishes that all citizens are equal before the law, without distinction as to origin, race, sex or religion; and article 4, which prohibits all forms of racial, ethnic and religious discrimination and all regionalist propaganda that might constitute a threat to the internal security of the State or the integrity of the Republic.

6. The preamble to the new Constitution that was adopted by referendum on 7 January 2001 proclaims:

> "The accession of the people of Senegal to the 1789 Declaration of the Rights of Man and of Citizens and to the international instruments adopted by the United Nations and the Organization of African Unity (OAU), and in particular the Universal Declaration of Human Rights of 10 December 1948, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Convention on the Rights of the Child of 20 November 1989 and the African Charter of Human and Peoples' Rights of 27 June 1981."

7. As a State party to the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, Senegal took steps, as soon as it ratified the Convention in 1972, to incorporate it into its domestic legal system and to implement it.

I. INCORPORATION OF THE CONVENTION INTO THE DOMESTIC LEGAL SYSTEM

8. Treaties are incorporated into the domestic legal system upon publication in the Journal Officiel, subject to their "ratification" by the President by virtue of the authority vested in him under the law.

9. Thus, by decree No. 72-992 of 26 July 1972, and pursuant to the Ratification Act (No. 72-10) of 1 February 1972, the President ordered the publication in the Journal Officiel of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965.

10. By this procedure, the Convention was incorporated into the domestic legal order, with precedence over national legislation (Constitution, art. 98). Like the Constitution and the law and regulations, the Convention now forms part of the corpus of Senegal's domestic legislation, which State bodies are obliged to implement, as follows:

(a) Non-judicial authorities must take the necessary steps to implement those provisions of the Convention that are not self-executing, i.e. whose implementation requires supplementary measures to be taken;

(b) Judicial authorities must apply the provisions of the Convention as required in cases that are brought before them.

II. IMPLEMENTATION OF THE CONVENTION

11. Several provisions of the Convention either refer to the general obligation to take the necessary steps to implement the Convention or deal with specific aspects of that obligation. The obligation derives from States parties' undertaking to pursue by all appropriate means a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.

12. In compliance with the fundamental obligations as described in article 2 of the Convention, therefore, Senegal has taken the necessary legislative measures (Act No. 81-77 of 10 December 1981) to define and punish racial discrimination in accordance with articles 1, 4 and 5. Other measures have been taken to implement articles 6 and 7, and will be described below.

A. Legislative measures

1. Implementation of article 1: definition of racial discrimination

13. In the Convention, the term "racial discrimination" means:

> "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

14. This definition is used in article 3 of Act No. 81-77, subsequently article 283 bis of the Criminal Code, and has been extended by the addition of the term "religious discrimination". The scope of application of the Convention has thus been extended to cover discrimination on

religious grounds. In fact, this is no innovation, since the 1963 Constitution also prohibited all discrimination on grounds of religion. The legislature no doubt took this precaution because of the influence of religious considerations in political alignments.

15. For example, in 1948 Léopold Sédar Senghor broke away from Lamine Guèye's French Section of Workers International (SFIO) to form the Senegalese Democratic Bloc (BDS), and although his reasons for doing so were quite unconnected with religion, it is a historical fact that he promptly received the support of Senegalese Christians within SFIO: the Guillaberts in Saint-Louis, the Legrands in Diourbel, the James in Kaolack and the Carvalhos in Ziguinchor.

16. As one prominent Senegalese has rightly said, "A multi-ethnic society with an added religious dimension can never be completely free of contradictions". The extension of the Convention to cover discrimination on grounds of religion was therefore a precautionary measure.

17. Senegal is a secular, democratic State and its legislation does not favour any racial, ethnic or religious groups, or any particular individuals. There is no advantage or disadvantage by reason of place of birth, person or family.

18. No section of the population and no individual can assume sovereignty. Under article 3 of the Constitution, "National sovereignty belongs to the people, and is exercised by the people through its representatives or by referendum".

19. Thus all forms of discrimination are unequivocally condemned and, under article 5 of the Constitution, "any act of racial, ethnic or religious discrimination and any regionalist propaganda prejudicial to the internal security of the State or to the integrity of the territory of the Republic" shall be punishable by law.

20. Similarly, political parties or coalitions of political parties competing in elections are prohibited from identifying with a particular race, ethnic group, sex, religion, sect, language or region.

21. In pursuance of these provisions of the Constitution, and to give effect to article 4 of the Convention, Senegal has adopted a number of important legislative measures, as described below.

2. Implementation of article 4

22. Article 4 of the Convention deals with the specific aspects of the general obligation of implementation by all necessary means, and in particular, to punish the undertaking, in accordance with paragraphs (a), (b) and (c):

(a) All dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination (and to recognize participation in such organizations or activities as an offence punishable by law);

(c) Any public authorities or public institutions, national or local, that promote or incite racial discrimination.

23. The implementation of these provisions required the drafting and promulgation of several pieces of legislation, including:

(a) Act No. 79-02 of 4 January 1979 repealing and replacing article 814, paragraphs 2 and 3, of the Code of Civil and Commercial Obligations, and article 2 of Act No. 68-08 of 26 March 1968 amending title VI, chapter II, of the Code of Civil and Commercial Obligations relating to associations and prohibiting the establishment of illegal associations;

(b) Act No. 79-03 of 4 January 1979 repealing and replacing article 5, paragraph 1, of Act No. 65-40 of 22 May 1965 on seditious associations;

(c) Act No. 81-17 of 15 May 1981, relating to political parties;

(d) Act No. 81-77 of 10 December 1981, relating to the punishment of acts of racial, ethnic or religious discrimination.

24. Acts Nos. 79-02, 79-03 and 81-17, all of which deal with the legal framework of associations and political groupings, prohibit all discrimination, in respect of admission to such an association, on grounds of race, sex, religion except as regards exclusively religious associations or political opinion except as regards political parties and associated groups.

25. These Acts also provide as follows:

(1) "Anyone who establishes or attempts to establish an association without registering it or without prior authorization as appropriate, or who attempts to re-establish an association dissolved by court order or by a government authority in accordance with article 816 of the Code of Civil and Commercial Obligations, shall be liable to a fine of between 200,000 and 300,000 francs and a prison sentence of between one month and one year, or either of these two penalties, without prejudice to any more severe penalty imposed under other legislation.

"The sentence shall include suspension of the civil rights listed in article 34 of the Criminal Code."

(2) "Anyone involved in direct or indirect support for or re-establishment of any association or group dissolved on grounds of sedition shall be liable to a prison sentence of between six months and two years and a fine of between 100,000 and 300,000 francs" (Act No. 79-03, sole article).

26. As regards propaganda activities, Act No. 81-77 extends article 1 of Act No. 65-40 of 22 May 1965 on seditious organizations, by inserting the following new paragraph 5:

"Whose activities are wholly or partly intended for the practice of racial, ethnic or religious discrimination or incitement to such discrimination."

27. In addition, Act No. 81-77 makes the acts described in article 4, subparagraphs (a), (b) and (c), of the Convention criminal offences.

28. Similarly, new provisions have been inserted into the Criminal Code, in articles 166 bis, 256 bis and 257 bis.

"Article 166 bis. Any administrative or judicial official, elected official or official of a public authority, or any official or employee of the State, public institutions, national corporations, public-private corporations or corporations receiving financial support from the Government, who denies any natural or legal person the exercise of a right without just cause on grounds of racial, ethnic or religious discrimination shall be liable to a prison sentence of between three months and two years and a fine of between 10,000 and 2 million francs."

"Article 256 bis. The same penalties as those provided in article 56 (one month to two years and a fine of 250,000 to 300,000 francs) shall apply to anyone who publicly posts, displays or projects, offers, even free of charge or in private, in any form whatsoever, directly or indirectly; or distributes or issues for distribution by any means whatsoever, any object or image, printed matter, written matter, speeches, posters, engravings, paintings, photographs, films or slides, photographic catalogues or reproductions, or emblems intended to proclaim racial superiority or arouse a feeling of racial superiority or racial hatred, or constituting incitement to racial, ethnic or religious discrimination."

29. In addition, with regard to racial discrimination, Act No. 81-77 increased the penalties for some offences, either by strengthening the existing penalties or by adding further penalties.

30. Articles 277, 278, 281, 295 and article 296, paragraph 2, of the Criminal Code have thus been repealed and replaced by the following provisions:

(a) Offences committed by any public broadcasting medium

"Article 277. In the event of conviction, the sentence may include, in cases covered by articles 250, 251, 252, 254, 255, 256 bis, 259, 260, 261, paragraph 2, 265 and 266, confiscation of all the publishing equipment seized and, in all cases, the seizure and suppression or destruction of all copies of the publication.

"However, suppression or destruction may be applied only to a certain number of the copies seized."

"Article 278. In the event of a conviction pursuant to articles 250, 251, 252, 254, 255, 256 bis, 259, 260, 261, paragraph 2, 265 and 266, suspension of the newspaper or periodical for a period not exceeding three months may be ordered by the same judicial decision.

"Such suspension shall not affect any work contracts by which the publisher is bound; the publisher shall continue to be bound by all contractual or legal obligations arising therefrom."

(b) Violence

"Article 281. Any killing of a person committed with premeditation or felonious intent or by reason of racial, ethnic or religious discrimination is classed as murder."

"Article 295. In cases where wounding, beating or any other violent act is committed with premeditation or felonious intent, or where the act has been committed by reason of racial, ethnic or religious discrimination, the penalty shall be increased as follows:

Between 5 and 10 years' imprisonment in the following cases covered by article 294, paragraph 2 (deliberate beating or wounding resulting in illness or total incapacity for work lasting more than 21 days);

Between 10 and 20 years of hard labour in the following cases covered by article 294, paragraph 2 (violence resulting in death, mutilation, amputation or loss of the use of a limb, blindness, loss of one eye or other permanent injury)."

"Article 296, paragraph 2. In cases of premeditation or felonious intent, or when the offence is committed by reason of racial, ethnic or religious discrimination, the prison sentence shall be between two and five years and the fine between 50,000 and 200,000 francs."

31. These provisions defining and punishing all acts of racial discrimination, pursuant to article 4 of the Convention, have been reinforced by measures aimed at guaranteeing every individual's right to equality before the law without distinction as to race, colour or national or ethnic origin, as required under article 5 of the Convention.

3. Implementation of article 5

32. Ever since independence, Senegal has taken steps to terminate any policy that may have the effect of causing or perpetuating racism or inequality. This objective was formalized in the obligation placed on the State, in article 1 of the 1963 Constitution, "to safeguard the equality before the law of all citizens without distinction as to origin, race, sex or religion", and now in the following provisions of article 8 of the Constitution of 22 January 2001:

"The Republic of Senegal shall guarantee to all citizens fundamental freedoms, economic and social rights, and collective rights. These rights and freedoms include: civil and political rights (freedom of opinion, freedom of expression, freedom of the press, freedom of association and freedom to demonstrate); cultural rights; religious rights; philosophical rights; trade union rights; the right of free enterprise; the right to education; the right to literacy; the right to own property; the right to work; the right to health; the right to a healthy environment; and the right to diversity of information."

33. Several provisions of the new Constitution expressly establish or reaffirm women's rights to equal treatment under the law. Articles 15, paragraph 2, and 19, for example, establish women's rights: (a) to purchase and own land; and (b) to own assets in their own right and personally manage their property.

34. Article 25 prohibits "any discrimination between men and women in respect of employment, pay or taxation".

35. In the area of legislative measures, one characteristic of Senegal's policy has been its continuity.

36. Even before ratification of the Convention, steps had been taken to ensure equal treatment for all before the law. In order to establish equal treatment before the courts, Ordinance No. 60-14 of 3 September 1960 restored women's rights; until then, the customary courts had favoured men when judging family disputes. With the unification of the various judicial regimes, the law is now the same for all and is applied without distinction as to sex.

37. In the area of nationality, according to Act No. 61-10 of 7 March 1961, as amended by Act No. 89-42 of 26 December 1989, on the determination of Senegalese nationality:

"Senegalese nationality may be chosen at any time between the ages of 18 and 25 by:

(1) A legitimate child of a Senegalese mother and a foreign father;

(2) An illegitimate child, when the parent to whom filiation is established second is Senegalese and the other parent is of foreign nationality."

38. A foreign woman who marries a Senegalese man may take Senegalese nationality, unless she explicitly states at the time of the marriage that she does not wish to do so. Conversely, a Senegalese woman who marries a foreigner does not lose her nationality, unless she explicitly renounces it before the marriage. Such renunciation is valid only if she is able to take the nationality of her future husband.

39. In the area of employment, Act No. 61-33 of 16 June 1961, containing the General Civil Service Statute, and Act No. 59-64 of 6 November 1959, containing the Labour Code, each stipulate that these laws shall be applied with no distinction between men and women.

40. Similarly, divorce by mutual consent was instituted under Act No. 72-61 (Family Code) of 12 June 1972, thereby placing men and women on an equal footing. The same Act prohibited repudiation, which in Muslim law was a privilege of the husband, and in fact made it a ground for divorce as constituting a serious insult to the wife.

41. After the Convention was ratified, further reforms were introduced in all areas.

42. In criminal law, for example, under Act No. 77-33 of 22 February 1977, amending the Criminal Code, article 332 defining and punishing the offence of abandoning the marital home was repealed, as it was considered to discriminate against the wife. The choice of marital home had previously been a prerogative of the husband, and the provisions of article 332 appeared not to apply to him. The offence of abandoning the home was therefore abolished and replaced by the more neutral offence of abandoning the family.

43. In the area of family law, Act No. 89-01 of 17 January 1989 amended or repealed the provisions of the Family Code that appeared to discriminate against women.

44. Article 371, paragraph 1, for example, was amended to read as follows: "The wife, like the husband, enjoys full civil capacity". This entailed the repeal of article 13, which established that the wife's domicile was the domicile chosen by the husband.

45. Article 154, which allowed a husband to object to his wife pursuing her own occupation, was also repealed.

46. Article 19 was amended to enable the wife to administer her husband's property temporarily in his absence. The article provides that, "on receipt of a request for a certificate of absence, the court shall appoint a temporary administrator of the property, who may be the spouse who has remained in the home ...".

47. Lastly, article 80, which provided that the family record book should be issued to the husband only, was also amended by the following addition: "and a copy of the family record book shall be given to the wife at the time of the marriage".

48. Like the provisions of the Convention, these associated provisions may be invoked in Senegalese courts, which may apply them if necessary in order to resolve disputes that come before them.

B. Judicial measures

49. Under article 98 of the Constitution, for a treaty to be executable within Senegal's domestic legal system, it must be published after ratification or approval. Once this formality has been completed, there is no judicial impediment to execution of the convention by the Senegalese courts, where such execution does not require supplementary measures to be taken or any necessary supplementary measures have already been taken.

50. With the entry into force in January 1984 of the above-mentioned Act No. 81-77, implementing articles 1, 4 and 5 of the Convention, any person within Senegalese jurisdiction may apply to the courts for satisfaction or reparation for any harm he may have suffered as a result of acts of racial discrimination that contravene the Convention and violate his individual rights and fundamental freedoms. If he is not given a hearing, he may apply to the Committee on the Elimination of Racial Discrimination, in accordance with Senegal's declaration under article 14 of the Convention.

51. No cases of racial discrimination appear to have come before either the Committee or the domestic courts. Senegal has nevertheless continued to strengthen its legal framework for the protection of individual rights.

52. Thus, in a series of legislative measures, inter alia Acts Nos. 85-25 of 27 February 1985 and 99-06 of 29 January 1999, effective remedies have been established to enable any person held in police custody during a preliminary inquiry to report all violations of his individual rights and fundamental freedoms. A suspect in police custody may apply to the public prosecutor via the criminal investigation officer, through any person or through his counsel, for a medical examination at any time during the period of custody. According to the law (Code of Criminal Procedure, art. 56, para. 2), the prosecutor must order such an examination. In the event of an extension of the period of custody, the detainee may also request the assistance of counsel from the bar association roster or a trainee lawyer. The lawyer appointed may communicate with the detainee under conditions which guarantee confidentiality, including by telephone or any other means of communication, if he cannot visit the detainee in person within a reasonable time.

53. The record of the hearing must make mention of the information provided and requests made under the aforementioned provisions, and of action taken, on pain of nullity.

54. The public right to bring criminal proceedings, which is initiated and exercised by the magistrates or officials authorized to do so under the law, may also be initiated by the injured party. Under article 2 of the Code of Criminal Procedure, "a criminal indemnity action to obtain compensation is available to anyone who has personally suffered harm as a direct result of the offence".

55. Senegal has thus made every effort to ensure that the Convention is implemented in all respects by the organs of the State. This implementation is monitored by the non-governmental human rights organizations (NGOs) and State institutions established for that purpose.

C. Institutional measures

56. In order to improve compliance with its international human rights commitments, the Senegalese Government has gradually created an institutional framework for the promotion and protection of human rights and humanitarian law. The following institutions have thus been established.

1. The Senegalese Human Rights Committee

57. The Senegalese Human Rights Committee was created in 1970 to replace the National Human Rights Commission. Its purpose is to help strengthen democracy in accordance with the principles and ideals proclaimed by the Universal Declaration of Human Rights.

58. The Senegalese authorities have established statutory guarantees for the Senegalese Human Rights Committee, in compliance with General Assembly resolution 48/134 on national institutions for the promotion and protection of human rights, adopted at its forty-eighth session on 20 December 1993, and with the declaration made at the first African Conference of National Human Rights Institutions, held at Yaoundé from 5 to 7 February 1996.

59. Act No. 97-04 of 10 March 1997, which was adopted to that end, reinforced the Committee's composition and independence and extended its spheres of competence.

60. The Committee is an independent body whose task is to represent the various trends in public opinion on human rights in Senegal. It is therefore made up of representatives of NGOs, the National Assembly, the highest courts, the bar and the universities. Representatives of the State sit on the Committee in a consultative capacity.

61. The Committee is responsible for promoting human rights through information campaigns and advocacy, and monitors implementation and observance of the human rights conventions.

62. As a consultative and coordinating body, it may, at the Government's or Parliament's request or on its own initiative, make recommendations concerning any human rights issue to, among others, the Inter-Ministerial Committee on Human Rights and Humanitarian Law.

2. The Inter-Ministerial Committee on Human Rights and International Humanitarian Law

63. Established by Decree No. 97-674 of 2 July 1997, the Inter-Ministerial Committee on Human Rights and International Humanitarian Law is an internal government body whose principal task is to coordinate government action on human rights. Thus it ensures the preparation, submission and presentation of Senegal's various periodic reports, in accordance with the various international human rights instruments.

64. The Inter-Ministerial Committee also ensures that Senegal's legislation is in line with the provisions of the international human rights instruments to which Senegal is a party.

65. In addition, the Committee considers allegations of human rights violations and ensures that the relevant ministerial departments respond appropriately.

66. Major changes will shortly have to be made to the Committee's structure and mandate following the establishment of the Human Rights and Humanitarian Law Office.

3. The Human Rights and Humanitarian Law Office

67. One of the very first decisions taken by the new President after the March 2000 presidential elections was to create a Human Rights and Humanitarian Law Office within the President's Office. The decision was a highly symbolic one and is illustrative of the political will that exists at the highest level of the State to make human rights issues a national priority.

68. According to the draft decree establishing its powers and structure, the Office works with the Inter-Ministerial Commission on Human Rights and International Humanitarian Law to coordinate government action in the area of human rights and international humanitarian law. Within the administration it is the interlocutor of the human rights organizations and assists them in liaising with government departments.

69. As the body responsible for preparing, presenting and following up the periodic reports submitted to the international human rights bodies, the Office ensures compliance with reporting deadlines and implementation by the Administration of the recommendations made following consideration of the reports by these bodies.

70. The Office is also responsible for considering human rights allegations and claims and investigating them with a view to recommending action by the President in the form of directives to the relevant government departments.

71. As part of its task of following-up government action in the area of human rights and humanitarian law, the Office promotes all awareness-raising and training activities for State officials in the area of human rights and international humanitarian law, particularly by means of the publication of brochures and the organization of seminars.

72. Lastly, the Office acts as the permanent secretariat of the Inter-Ministerial Commission on Human Rights and International Humanitarian Law, which is chaired by the Secretary-General of the Government.

4. The Inter-Ministerial Commission on Human Rights and International Humanitarian Law

73. The Inter-Ministerial Commission, which is to replace the Inter-Ministerial Committee on Human Rights and International Humanitarian Law, will provide the framework for government coordination, where ministerial departments will be able to harmonize their views on human rights issues.

74. In the light of opinions submitted by the Senegalese Human Rights Committee, the Commission will discuss the draft periodic reports prepared by the Human Rights and Humanitarian Law Office.

75. It will also be responsible for adjusting current human rights legislation and regulations. In particular, it will promote the teaching of human rights and humanitarian law, in the national languages if necessary, within schools and universities and in the security forces' training schools.

76. No mention has yet been made in this report of measures taken to give effect to article 7 of the Convention. This Article has deliberately been omitted from the preceding part of the report since Senegal intends to deal point by point with the information requested by the Committee on the Elimination of Racial Discrimination and will not evade any question

III. INFORMATION REQUESTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

77. Following the submission of Senegal's previous report, the Committee expressed the following concerns:

(1) The "lack of adequate information in the report on the measures taken by the State party to implement provisions contained in articles 5, 6 and 7 of the Convention";

(2) The "conflict in the Casamance region, where, despite the signing of agreements between the Government of Senegal and secessionists, violence has reoccurred, taking the form of an ethnic conflict".

78. The Committee also made a number of suggestions and recommendations to the Government of Senegal, including a recommendation to "intensify efforts aimed at finding a durable and peaceful solution to the problems in the Casamance region, with a view to avoiding any further violence and normalizing the situation".

79. In addition the Committee drew the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111 of 16 December 1992, and encouraged it to expedite its action formally to accept that amendment.

80. On the first point, namely the lack of adequate information on measures taken to implement the provisions of articles 5, 6 and 7, it must be said that these are major concerns for Senegal, as they are for the Committee. This is demonstrated by the sections of this report devoted to the measures taken by Senegal to give effect to the provisions of articles 5 and 6.

81. Senegal's obligations under article 7 of the Convention are equally a subject of national concern. Indeed, they are one of Senegal's priorities. Under the 1963 Constitution, articles 16 and 17, for example, the State and the public authorities had an obligation to create the conditions and public institutions necessary to guarantee an education for all children.

82. More recently, the 22 January 2001 Constitution provides, in article 22, that:

> "The State has a duty and responsibility to educate and train young people in public schools.
>
> "All children - boys and girls - in every part of the country have the right of access to school" (para. 2).

In the interests of pluralism and diversity, no distinction is made between religious and non-religious institutions and communities, all being given "equal recognition as vehicles for education". Similarly, "all national institutions, private or public, have a duty to make their members literate and to participate in the national literacy drive in one of the national languages".

83. Pursuant to these constitutional obligations, i.e. those contained in the 1963 Constitution, and those contained in Act No. 71-36 of 3 June 1971, which was superseded by and Act No. 91-22 of 16 February 1991 containing guidelines for national education, the Government, in a statement on its general policy, proclaimed elementary education a fundamental right for all children. It undertook to correct the disparities between the sexes and regions and make education universal through mechanisms to increase the school population (ages 7 to 12). To that end, a major social mobilization effort was launched, and included the following events:

(a) National forum on girls' enrolment in school, held in 1995;

(b) Creation of a President's prize for schools with an outstanding record in enrolling girls;

(c) Launch of a girls' school enrolment programme (SCOFI) and establishment of community schools;

(d) Launch of a human resources development programme (PDRH 2) and a UNICEF-assisted project in support of the "New School";

(e) Launch of a support project for women's groups (PAGPF): the education section has established 300 community childcare centres in five regions of Senegal;

(f) Finalization and implementation of the Ten-year Education and Training Programme (1998-2007), which will make it possible to correct geographical imbalances in school enrolment, make better provision for children with disabilities and ultimately achieve the goal of education for all.

84. The desire of the current President to make education a national priority, as stated in the January 2001 Constitution, was recently reaffirmed at the World Economic Forum in Davos. Presenting his development plan for Africa, the OMEGA project, the President noted the failure of the development policies hitherto practised in Africa and funded by foreign aid and external debt, and proposed to his fellow Heads of State a new approach to development based on education and the establishment of infrastructure.

85. For Senegal, then, education is a vector of economic and social development: it receives more than 30 per cent of the State budget. For this reason, under the guidance of the President, who defines State policy, the Government which has emerged from the changeover has launched a far-reaching programme to reform national education and vocational training.

86. The second point raised by the Committee on the Elimination of Racial Discrimination concerned the conflict in the southern region of Senegal and, in particular, "the tension which had manifested itself for some years in the Casamance region". The members of the Committee, suggesting that "inter-ethnic problems were among the most serious and constant causes of massive violations of human rights, discrimination and, in some cases, political oppression in Africa, expressed a desire to know what Senegal was doing to prevent the deterioration of certain inter-ethnic tensions on its territory in general". Therefore, "The Committee would welcome details on the situation in that region and on the measures that the Government was considering taking in order to respond to it and to prevent a similar situation from arising elsewhere".

87. What is happening in Casamance is not an ethnic conflict. The Diola, for example, are not persecuted anywhere in Senegal. For a full understanding of this statement, it is necessary to view Casamance and the Casamance Democratic Forces Movement in the context of Senegal.

88. Each of the regions of Senegal has its own characteristics. Casamance, however, would seem to be a special case in terms both of physical geography and culture.

89. Casamance is as big as Belgium and extends over one seventh of the total area of Senegal. It comprises three natural regions: Haute Casamance to the east, Moyenne Casamance in the centre and Basse Casamance to the west, on the Atlantic coast. The peoples of Casamance are the Peul and the Mandingo, who live in the east and the centre - today the administrative region of Kolda, and the Diola, the Manjak, the Mankagn and the Balante, who share the western region - the administrative region of Ziguinchor.

90. Cut off from the rest of the country by the enclave of Gambia, Casamance is sandwiched between Gambia to the north and Guinea-Bissau to the south, and has only a short border to the east with eastern Senegal. Its geographical position, the legacy of arbitrary colonial borders, has inevitably led to the isolation of the local populations and a feeling of being different, particularly among the people of Basse Casamance, which has no border with any other region of Senegal.

91. This problem, it must be said, is not unique to Casamance. In certain Fouta areas in the north, people have the same attitude. Senegal to them is essentially Dakar and the groundnut basin - the areas served by the railway built during the colonial period.

92. This was the background to the emergence of the first regionalist groups in Senegal, a country that had never known ethnically-based political parties. The Casamance Democratic Forces Movement (MFDC), which opposes centralization and demands that the region should fully exercise its political responsibilities and elect its own local representatives, was formed in Casamance in 1944. The Fleuve Valley Residents' Union (UGOVF) was created in the Fleuve region in 1947 to defend the interests of the Fouta.

93. As far as Casamance is concerned, MFDC's origins can be traced to an exclusively regionalist movement. It was founded by two primary schoolteachers, one a Catholic Diola, Emile Badiane, the other a Muslim Peul, Ibou Diallo, with the support of more than 100 leaders from all ethnic groups throughout the region; moreover, it was founded in Sédhiou, in Moyenne Casamance, where the inhabitants are predominantly Mandingo.

94. Initially, MFDC was anxious primarily to free itself from the control of the French Section of Workers International (SFIO), a political party whose Senegalese branch had inherited the Jacobinic tradition of overcentralization.

95. When the Senegalese Democratic Bloc (BDS), a federal political party, was formed, MFDC joined it and became one of its regional branches. At the 1954 party congress in Ziguinchor, when BDS decided to abolish regional branches and introduce a system of individual applications for membership, one group of the people of Casamance broke away and, at the instigation of Djibril Sarr, formed the Casamance Autonomous Movement (MAC).

96. MAC demanded autonomy just as MFDC had done 10 years earlier in breaking with SFIO. Independence from BDS was the only concern of MAC's founders, who, it should be noted, were Casamance Wolof from the region (Djbril Sarr, and later Assane Seck).

97. MFDC , which had been founded in 1944, was finally absorbed within BDS. But it was revived by a Diola priest, Abbé Augustin Diamacoune Senghor on 26 December 1982. The armed wing of MFDC, known as "Atika" ("Fighter" in Diola), was formed in 1985. The question that arises is what are MFDC's objectives, and how does it justify them.

98. A map of a Diola republic was found among documents seized by the security forces from MFDC members in October 1990. The republic extends as far as Tanaf (Senegal) in the north and is bounded to the south by the river Cacheu (Guinea-Bissau), to the east by Gambia and to the west by the Atlantic Ocean. It therefore includes parts of Senegal, Gambia and Guinea-Bissau, and comprises six provinces: Combo in Gambia; Bignona, Ziguinchor, Oussouye and Dabo in Senegal; and Veréla in Guinea-Bissau.

99. The root causes of the "secession" date back to a statement made by Abbé Diamacoune Senghor at the Dakar Chamber of Commerce on Saturday 23 August 1980: "By what right did France include Casamance in Senegal at independence, without consulting those concerned? Casamance has nothing to do with Senegal historically, economically or ethnically. It was administered together with Senegal purely for reasons of convenience, but it was a protectorate".* Thus the ground was laid for what was to become the "Casamance problem".

100. However, in a document entitled "Note on the MFDC spokesman's questions concerning the territorial boundaries of Casamance during the colonial period", published on Saturday, 17 February 2001, the Casamance Leaders' Collective stated that confusion had arisen around the concepts of "protectorate", which supposedly described the status of Casamance, and "directly administered territory", which applied to the remainder of Senegal. According to the authors, a dual budget system had been instituted in the colony of Senegal in 1892. The notion of protectorate was also applied to the systems of budgeting procedure and budget management, which were different from those used in the directly administered territories. Ziguinchor, Carabane and Sédhiou, for example, all of them provinces of Casamance, were directly administered in budget terms under a decree of 16 June 1895.

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* J.R. de Benoist, "Pour une solution définitive du conflit en Casamance", Afrique contemporaine, No. 160, October-December 1981.

101. The budgeting procedure established in 1892 was later extended to the whole of Senegal by a decree dated 18 October 1904, but was finally discontinued by a decree dated 4 December 1920, which established Senegal's full municipalities and mixed municipalities.

102. The Casamance leaders' went on to discuss two periods:

(a) Pre-European: according to the Casamance leaders, there was no such political or administrative territorial entity as "Casamance"; Senegambian and Guinean territory was made up of kingdoms and/or villages organized along ethnic lines or linked by bonds of vassalage, alliance or mere proximity, and with names such as Joolof, Cayor, Sine, Gadam, Kasa, Gabou, Kantou, Patchona, etc.;

(b) Colonial period: the leaders point out that it was the first colonial settlers who asserted that Casamance was part of Senegal. In 1967, the Abbé de Marsy said of West African history, in the introduction to volume 12 of his L'histoire moderne pour servir de suite à l'ancienne de M. Rollin (p. 3): "Senegal and Nigritie lie to the north of Guinea, between latitudes 11° and 20°". In fact, a sizeable portion of what is now Guinea-Bissau lies between latitudes 11° and 20° north, since Guinea-Bissau's northern border lies at latitude 12° 20' and would thus form part of Senegal and Nigritie.

103. G. G. Beslier's Le Sénégal, published by Payot in 1935, includes the demographic maps of Father Boilat, which show the Mandingo, Diola, Wolof, etc. as peoples of Senegal.

104. Under a decree dated 1 August 1889, which gave colony status to the territories to the south of Portuguese Guinea, i.e. the colonies of French Guinea, Ivory Coast and Dahomey, Saloum, which corresponds to the modern administrative region of Kaolack, and Casamance, were retained as an integral part of the colony of Senegal.

105. The response of the Casamance Leaders' Collective to MFDC, part of which was published in the daily Le Soleil of 19 February 2001, leaves no room for doubt on the Casamance question. The argument that Casamance was a protectorate does not bear analysis; the same applies to the allegations or speculations concerning discrimination.

106. In the area of education, school statistics for the 1960s and 1970s show that, in terms of enrolment rates, Casamance moved up from third place in 1965 (31.2 per cent) to second place in 1976 (34.1 per cent). In the school year 1987/88, 309 (12.77 per cent) of Senegal's 2,420 primary schools were to be found in the Ziguinchor region, even though only 5.76 per cent of Senegal's population lived there.

107. In the area of health, Casamance was in fourth place in 1980 in terms of number of inhabitants per doctor, behind Cap-Vert, Fleuve and Eastern Senegal, but ahead of the Thiès region, which includes Senegal's second city and President Senghor's birthplace, and the Diourbel-Louga region, birthplace of the then Prime Minister, who later became President.

108. According to the latest Health Department statistics on the number of inhabitants per doctor, nurse and midwife, dating from 1991, the Ziguinchor region is in third place behind Dakar and Thiès, out of the country's 10 regions. Moreover, the lowest percentage of children with disabilities is to be found in Basse Casamance: 0.94 per cent of children under 14, as compared with 0.95 per cent for Dakar and 2.28 per cent for Louga. The reason for this is that public vaccination campaigns have been far more sustained in the Ziguinchor region.

109. In the area of regional development, major efforts have been made to open Casamance up to the other regions. Two major highways now provide access to the region: one is the Trans-Gambian highway, which crosses Gambia, and the other links Eastern Senegal and Casamance. There is a twice-weekly Dakar-Ziguinchor-Dakar boat connection. There is also at least one flight a day between Dakar and Ziguinchor. Ziguinchor is the only regional capital with such frequent air connections with Dakar, and major carriers from Europe arrive regularly at Cap-Skiring airport during the tourist season.

110. On the President's initiative, the current Government has set in motion a peace process, to which further impetus has been given by a meeting between members of the Government and MFDC leaders and an invitation by the Government to the various branches of MFDC to unite and negotiate with one voice.

111. In short, the Committee on the Elimination of Racial Discrimination will certainly agree with Senegal that the conflict in Casamance is not an ethnic conflict: there is no basic antagonism between the Diola and other ethnic groups. Even at the height of the crisis, there were no reports of any confrontation between the Diola and other ethnic groups, or even of any deterioration in normal human relations, either in Casamance or elsewhere in the country.

112. This was recently borne out by the results of the referendum held on 7 January 2001. The draft constitution submitted for the people's approval on that occasion, which proclaimed "the inviolable principle of the integrity of the national territory and national unity with respect for the specific cultural characteristics of all constituent groups of the nation", was approved by 95 per cent of the peoples of Basse Casamance, where the turnout for the referendum was 96 per cent. In other words, these predominantly Diola populations agree with the Senegalese leaders' position on Casamance, namely that the only way forward is to open the region up. The Government is anxious to implement this project in the near future.

113. To this end, at meetings of various regional development committees in Kolda and Ziguinchor, the Prime Minister announced a series of measures totalling hundreds of millions of francs to increase the economic capacity of Casamance, with the aim of linking Casamance's economy with that of the other regions of Senegal.

Conclusion

114. Senegal hereby solemnly renews its commitment to spare no effort to create a tolerant society on its territory and to participate in the international effort to combat all forms of discrimination.